

## **ORDINANCE**

### **AN ORDINANCE AMENDING THE FAUQUIER COUNTY CODE TO ADD SECTIONS 15-10 THROUGH 15-10.3 RELATED TO TRESPASS**

#### **Section 15-10. Designation of Sheriff and designees as "persons lawfully in charge of property" for the purposes of enforcing laws prohibiting trespassing.**

The owner of any real property located in the county, or any person legally authorized to act for the owner of such property, or the lessee, custodian, or other person lawfully in charge as those terms are used in § 18.2-119 of the Code of Virginia, may designate the Sheriff or his deputies as agents of the property owner and as "persons lawfully in charge of the property" for the purposes of forbidding another to go or remain upon the lands, buildings, or premises of the owner as specified in the designation. Such designations must be made in accordance with the procedure established in Section 15-10.1 and are subject to the conditions and limitations established by Section 15-10.2 and 15-10.3.

#### **Section 15-10.1. Procedure for designating the Sheriff and designees as "persons lawfully in charge" of the owner's property for purposes of enforcing laws prohibiting trespassing.**

The owner of any real property located in the County, or any person legally authorized to act for the owner of such property, or the lessee, custodian, or other person lawfully in charge as those terms are used in § 18.1-119 of the Code of Virginia, wishing to designate the Sheriff as "a person lawfully in charge of the property" for the purposes set forth in Section 15-10 must:

(A) Execute a written Designation, in a form approved by the Sheriff and the County Attorney, designating the Sheriff and his deputies as persons lawfully in charge of the owner's property for the following purposes:

1. to orally or in writing forbid any person identified by the property owner or applicant, or any person who, in the opinion of the Sheriff or his designees, should be forbidden to go or remain upon the lands, buildings, or premises covered by the application; and

2. to initiate criminal process for trespassing and take any and all other appropriate action to enforce state and local laws prohibiting trespassing if a person returns to or remains on the property after having been forbidden to do so by the owner, lessee, custodian, or other person lawfully in charge of the property.

#### **Section 15-10.2. Acceptance of designation of Sheriff required; other conditions.**

(A) A designation of the Sheriff and his deputies as agent and a person lawfully in charge of the property becomes complete when the Sheriff receives, reviews, and accepts, and the Sheriff consents to being designated as a person lawfully in charge of the property for the purposes set

forth in Section 15-10. The decision whether to accept any designation is solely within the discretion of the Sheriff, who may base his decision on such factors as resource levels of the Sheriff's Department, and the proper allocation of those resources.

(B) The Sheriff may rescind his acceptance at any time, by mailing written notification of his rescission of acceptance to the applicant. The decision to rescind an acceptance of designation is solely within the discretion of the Sheriff, who may base his decision on such factors as resource levels of the police department, and the proper allocation of those resources.

(C) The Sheriff and his deputies will make reasonable efforts to issue no trespassing notices to persons specifically identified by the applicant.

(D) The decision of whether to issue No Trespassing Notices to persons who have not been specifically identified by the applicant, but who are observed on the property by the Sheriff or his deputies, are solely within the discretion of the Sheriff and his deputies.

(E) The Sheriff and his deputies will provide written notification to the applicant whenever they give an oral or written No Trespassing Notice to a person, identifying the person with reasonable specificity.

(F) The Sheriff will maintain on file in the Sheriff's Department all applications and powers of attorney in cases in which he has accepted designation as "a person lawfully in charge of the property" as well as records of all no trespassing notices issued by employees of the police department acting in that capacity.

**Section 15-10.3. Temporary or partial suspensions or rescissions of No Trespassing Notices.**

The property owner or applicant may temporarily or partially suspend, or rescind, a notice of no trespassing issued by the Sheriff or his deputies to any person, provided that the property owner or applicant first provides a written notification to the Sheriff of the temporary or partial suspension or rescission, and sufficiently identifying the person. If a trespassing notice is to be temporarily or partially suspended, the property owner or applicant must provide, in the written notice, a reasonably specific description of the times and circumstances under which the person is authorized to be on the property.

---

**DESIGNATION OF SHERIFF OR HIS DEPUTIES AS PERSONS  
LAWFULLY IN CHARGE OF REAL PROPERTY FOR THE PURPOSE  
OF PROHIBITING TRESPASS**

**THIS DESIGNATION**, made this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_, provides as follows:

1. \_\_\_\_\_ ("Owner") either owns or is the authorized Owner's agent, for property commonly known as \_\_\_\_\_ in the County of Fauquier, Virginia ("the Property").

2. Owner does not permit trespassing by individuals on the Property. This prohibition does not apply to fundraising by legitimate charitable organizations which have been authorized by the Owner to conduct fundraising on the Property.

3. Owner desires the assistance of the Fauquier County Sheriff's Department in preventing trespassing on the Property.

4. Owner hereby authorizes the Sheriff or any of his deputies who observe any person trespassing on his/her own behalf on the Property:

- (A) To direct the person to leave the Property;
- (B) To direct the person not to return to the Property unless invited by the Owner;
- (C) To inform the person that if he or she returns to the Property without invitation of the Owner, he or she will be arrested for trespassing; and
- (D) To arrest the person if he or she fails or refuses to leave the Property immediately, or if he or she returns to the Property without invitation of the Owner.

5. This authorization is valid for a period of one year unless earlier revoked in writing.

WITNESS the following signature and seal:

**PROPERTY OWNER (or Authorized Agent\*)**

\_\_\_\_\_  
**Name:**

**Title:**

COMMONWEALTH OF VIRGINIA  
COUNTY OF FAUQUIER, to-wit:

The foregoing authorization was signed and acknowledged before me by \_\_\_\_\_ in my jurisdiction aforesaid on the day and year written above.

\_\_\_\_\_  
Notary Public

My commission expires:  
\_\_\_\_\_

\* If Owner's Authorized Agent a copy of the Agency Agreement or Power of Attorney granting the agent the authority to act on behalf of the Owner must be furnished with this Designation.